

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of:	)	
	)	
Creation of a Low Power Radio Service	)	MM Docket No. 99-25
	)	
Amendment of Service and Eligibility	)	MM Docket No. 7-172
Rules for FM Broadcast Translator Stations	)	RM-11338

**COMMENTS OF MARK D. HUMPHREY**

***I urge the Commission to remove the date limitation which prohibits translators authorized after May 1, 2009 from rebroadcasting AM stations.*** As discussed in Paragraph 36 of the Third Further Notice of Proposed Rule Making, the AM/FM translator rule has proved a remarkable success and serves the public interest by allowing AM "daytimers" (as well as Class B and C AM stations with limited night coverage) to provide 24-hour coverage of local news and events, better quality audio, and a effective solution to interference complaints from listeners. As a broadcast engineering consultant, I've helped several independent AM stations to take advantage of this rule in areas where existing FM translators could be found, purchased, and modified to meet the cross-service restrictions. And as a shareholder in WCJW, Warsaw, NY, I'll say firsthand that our three translators have greatly helped this locally-programmed AM Class D facility to remain viable in a rural market despite the poor economy – in fact, we've added some full- and part-time jobs since our programming has expanded to a formerly-impossible 24-hour/day schedule. WCJW's main translator W279BO provides excellent 70+ dBu coverage to Warsaw, a valley community (and seat of Wyoming County government) which formerly lacked high quality FM service due to terrain blockage, while W265BX offers similar service to Nunda, NY and rural southern Livingston County. We also operate W288BZ in Batavia, a city with over 16,000 residents -- but no commercial FM allotment. We were fortunate to acquire these stations.

However, I've been in contact recently with a number of frustrated AM broadcasters that want FM translators but cannot find any available for sale. Barring any change in the present rule, I've advised these licensees to wait until the next round of "Auction 83" translator construction permits is granted, then acquire a new authorization and attempt to negotiate a swap of it for a pre-May 2009 license (which can be relocated to a suitable site) – but frankly, this overly complicated "workaround" will just create an additional processing burden for Media Bureau staff. We now know that AM/FM translators are a good idea. Let's streamline the process and eliminate the unnecessary date restriction from 47 C.F.R. § 74.1232(d); this will allow all translator authorizations to become eligible for AM station use.

***To create additional opportunities for low-power FM, the Commission should permit a small portion of TV Channel 6 spectrum to be shared with radio broadcasting*** – specifically, the range 87.4 - 88.0 MHz, which would allow three LPFM-reserved channels centered at 87.5, 87.7, and 87.9, within the tuning capability of most current (and many older) receivers. The several existing Channel 6 DTV stations would be protected from interference on the basis of distance separation or contour protection. Across a large portion of the country (particularly in large markets), this would reduce much of the spectrum competition that exists between LPFM and FM translators in the 88-108 MHz band.

Respectfully submitted,  
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